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FILED  
2008 AUG 29 PM 4:47  
CLERK US DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA  
BY KAH DEPUTY

10 IN THE UNITED STATES DISTRICT COURT  
11 FOR THE SOUTHERN DISTRICT OF CALIFORNIA

12 '08 CV 1598 W NLS

13 WINDOW WORLD SAN DIEGO, INC., a  
California corporation; WINDOW WORLD,  
14 INC., a North Carolina corporation;

15 Plaintiffs,

16 vs.

17 WINDOW WORLD, INC., a California  
corporation DOES 1 through 100, inclusive,

18 Defendants.  
19  
20  
21  
22  
23

Case No.:

COMPLAINT

1. FEDERAL TRADEMARK INFRINGEMENT;
2. COMMON LAW TRADEMARK INFRINGEMENT;
3. FALSE DESIGNATION OF ORIGIN;
4. UNFAIR COMPETITION; and
5. CALIFORNIA STATE TRADEMARK INFRINGEMENT.

DEMAND FOR JURY TRIAL

24 NOW APPEARS, WINDOW WORLD SAN DIEGO, INC.; and WINDOW WORLD,  
25 INC., (hereinafter "Plaintiffs" or "WINDOW WORLD"), and hereby brings this action against  
26 WINDOW WORLD, INC., (hereinafter "Defendant") for injunctive relief and damages under the  
27 laws of the United States and the laws of the state of California, as follows:

28 ////

VIA PDF

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2 **SUBJECT MATTER JURISDICTION AND VENUE**

3 1. This court has subject matter jurisdiction over the claims in this action which relate to  
4 trademark infringement pursuant to the provisions of 28 U.S.C. §§ 1331, 1332 and/or 1338, and  
5 15 U.S.C. §§ 1114(1), 1121 and/or 1125(a). The common law trademark infringement, and State  
6 of California statutory and common law claims of unfair competition join with a substantial and  
7 related claim under the Federal trademark laws. Further, regarding the common law, and  
8 statutory State of California claims, this Court has jurisdiction under the doctrines of Pendent and  
9 Ancillary Jurisdiction.

10 2. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(b) and/or (c). The  
11 infringing products which are the subject of this litigation were advertised, distributed, sold,  
12 and/or offered for distribution and sale in the Southern District of California; resulting consumer  
13 confusion has occurred and will occur in Southern District of California; the claims alleged in  
14 this action arose in the Southern District of California; and/or the defendants, and each of them,  
15 may be found in the Southern District of California.

16 **PARTIES AND PERSONAL JURISDICTION**

17 3. Plaintiff WINDOW WORLD SAN DIEGO, INC., is a California corporation with  
18 its principal place of business in Escondido, California. WINDOW WORLD SAN DIEGO,  
19 INC., was at all relevant times a corporation organized and existing under the laws of the state of  
20 California.

21 4. Plaintiff WINDOW WORLD, INC., is a North Carolina corporation with its  
22 principal place of business in Wilmington, North Carolina; WINDOW WORLD, INC., was at all  
23 relevant times a corporation organized and existing under the laws of the state of North Carolina.

24 5. Upon information and belief, Defendant WINDOW WORLD, INC.,  
25 ("Defendant") is a California corporation having an office at 20640 Plummer Street, Chatsworth  
26 CA 91311. Upon information and belief, Defendant resides and/or transacts business in the  
27 Southern District of California, including, but not limited to importation, distribution,  
28 advertisement, sale and/or offer for sale of goods; and the acts of infringement and other

1 wrongful acts alleged in this Complaint occurred in the Southern District of California.

2  
3 6. Plaintiffs are ignorant of the true names and capacities of defendants DOES 1  
4 though 100, inclusive, and by reason thereof sues said Defendants by their fictitious names;  
5 Plaintiffs will obtain leave of court, if necessary, to amend this complaint to allege the true  
6 names and capacities of these fictitiously-named Defendants when their identities are fully and  
7 finally ascertained.

#### 8 NATURE OF THE DISPUTE

9 7. Plaintiffs design, distribute, market and sell goods throughout the United States,  
10 under a stylized logo of two windows and the distinctive term "WINDOW WORLD." This  
11 distinctive mark is federally registered under United States Trademark Registration Number  
12 2,331,991 in International Class 037 (hereinafter "Registered Mark"). A true and correct copy  
13 of United States Trademark Registration Number 2,331,991 is attached hereto as Exhibit "1."

14 8. Plaintiffs are the owners of all rights, title and interest in the Registered Mark  
15 attached hereto as Exhibits "1." Further, Plaintiffs are the owners of all common law rights, title  
16 and interest in the stylized WINDOW WORLD logo.

17 9. Plaintiffs WINDOW WORLD, is in the business of designing, manufacturing,  
18 distributing and selling a wide variety of goods bearing the WINDOW WORLD Trademark, or  
19 similar variations thereof. The goods designed, manufactured, advertised, distributed and sold  
20 by Plaintiffs WINDOW WORLD include, but are not limited to, vinyl replacement and new  
21 construction windows. Plaintiffs WINDOW WORLD began its business in or about 1995.

22 10. Plaintiff WINDOW WORLD created and has continually used an original artistic  
23 design of a stylized logo of two windows together with the world symbol "WINDOW WORLD."  
24 In or bout March of 1998, Plaintiff WINDOW WORLD filed for a Federal Trademark  
25 Registration for its WINDOW WORLD trademark.

26 11. The designs included in Plaintiffs WINDOW WORLD's Trademark are  
27 distinctive and arbitrary, and goods bearing the WINDOW WORLD Trademark are identified by  
28 the purchasing public and in the construction trade as merchandise emanating from Plaintiffs

1 WINDOW WORLD. Plaintiffs WINDOW WORLD's use of the WINDOW WORLD  
2 Trademark on goods, including, but not limited to, vinyl replacement and new construction  
3 windows, has been open, notorious, continuous and widespread. A label with the WINDOW  
4 WORLD Trademark is affixed on each window manufactured for Plaintiff WINDOW WORLD  
5 as it comes off the factory floor.

6 12. Plaintiffs WINDOW WORLD's products utilizing the WINDOW WORLD  
7 Trademark have been extremely popular. Plaintiffs WINDOW WORLD have had an exceptional  
8 sales record and demand for products bearing the WINDOW WORLD Trademark have been  
9 growing exponentially since their introduction into the marketplace. Plaintiffs WINDOW  
10 WORLD's products have appeared in various industry magazines, trade shows and trade  
11 publications. The sale of products bearing the WINDOW WORLD Trademark have resulted in  
12 both a large gross income and net profit to Plaintiffs WINDOW WORLD.

13 13. Plaintiffs WINDOW WORLD have expended an enormous sum of money in  
14 promoting and advertising their products under the WINDOW WORLD Trademark, including  
15 trade publications, brochures, pamphlets, flyers and other advertising materials.

16 14. As a result of Plaintiffs WINDOW WORLD's extensive advertising and  
17 promotion of the WINDOW WORLD Trademark, the targeted purchasing public identifies  
18 products bearing the WINDOW WORLD Trademark as goods emanating from Plaintiffs  
19 WINDOW WORLD and expect such goods to have its source of origin with Plaintiffs  
20 WINDOW WORLD and to be made with the same high quality standards and ruggedness  
21 expected of Plaintiffs WINDOW WORLD products and to withstand personal (end-user) and  
22 professional (contractor) use intended for Plaintiffs WINDOW WORLD's products.

23 15. The WINDOW WORLD Trademark is valid, subsisting and **incontestable**.  
24 Registration of the WINDOW WORLD Registered Mark – before any registration by Defendant  
25 of Window World – constitutes prima facie evidence of Plaintiffs WINDOW WORLD's  
26 exclusive ownership of the WINDOW WORLD Trademark.

27 16. Defendant, without the consent of Plaintiffs, is designing, manufacturing,  
28 licensing, distributing, and/or importing windows and/or other replacement vinyl window–

1 related goods utilizing a stylized logo of "WINDOW WORLD" in a manner which is  
2 confusingly similar to Plaintiffs' WINDOW WORLD Trademark. A true and correct copy of the  
3 type of mark utilized by Defendant is attached hereto as Exhibit "2."

4 17. In view of the Registration of the Registered Mark, and the continuous, open, and  
5 notorious use of the WINDOW WORLD Trademark, the Defendant had notice of WINDOW  
6 WORLD's Trademark.

7 18. The products provided by Defendant are of the same general type and are intended  
8 for the exact same purpose and same class of purchasers as the products provided by Plaintiffs'  
9 which bear WINDOW WORLD Trademark.

10 19. Sales of the Defendant's goods utilizing a stylized WINDOW WORLD logo together  
11 constitutes a false designation of origin of the Defendant's products and constitutes deceptive  
12 trade practices and unfair competition, irreparably damaging Plaintiffs and their rights in the  
13 WINDOW WORLD Trademark.

14 **FIRST CLAIM FOR RELIEF**

15 (Trademark Infringement in Violation of the Lanham Act §43(a),

16 15 U.S.C. §1114(1) against all Defendants.)

17 20. Plaintiffs reallege, and incorporate herein by this reference, each and every  
18 allegation set forth in paragraphs 1 through 19, inclusive.

19 21. Plaintiffs have advertised and promoted their products under the Registered Mark,  
20 and as a result of this advertising and promotion, Plaintiffs' products and the Registered Mark  
21 have come to mean and are understood to mean the products of Plaintiffs WINDOW WORLD,  
22 and are the means by which those products are distinguished from the products of others in the  
23 same and in related fields.

24 22. Defendant's activities complained of in this Complaint constitute unauthorized  
25 manufacturing and/or use and/or distribution and/or selling in California and in interstate  
26 commerce of goods bearing a reproduction, counterfeit, copy and/or colorable imitation of the  
27 Registered Mark, or a confusingly similar mark. Such activities have caused, and are likely to  
28 cause, consumer confusion, consumer mistake, and/or deception as to the source or association of

1 the products.

2 ////

3 23. Further, the activities of Defendant are intended to, and are likely to, lead the  
4 public to incorrectly conclude that the products being offered, marketed, distributed and/or sold  
5 by Defendant originate, are sponsored by, or associated with, or are authorized to be offered,  
6 marketed, distributed and/or sold by Plaintiffs WINDOW WORLD, to the damage and harm of  
7 Plaintiffs, its licensees, distributors and the public. Defendant's activities constitute violation of  
8 the Lanham Trademark Act.

9 24. As a result of the foregoing, Plaintiffs have been damaged in an amount which is  
10 not precisely ascertainable, but which is greatly in excess of the jurisdictional minimum of this  
11 Court, and which will be alleged by amendment at such time when it is precisely ascertained.

12 25. The activities of Defendant as alleged in this complaint have caused and will  
13 continue to cause irreparable harm to Plaintiffs' business(es) for which Plaintiffs have no  
14 adequate remedy at law in that: 1) if Defendant's wrongful conduct continues, consumers are  
15 likely to become further confused as to the source, association or approval of Defendant's  
16 confusingly similar products; 2) Plaintiffs' products and goodwill are unique and valuable  
17 property which have no readily determinable market value; 3) the infringement by Defendant  
18 constitutes an interference with Plaintiffs' goodwill and customer relationships; and 4)  
19 Defendant's wrongful conduct, and the damages resulting to Plaintiffs are continuing.  
20 Accordingly, Plaintiffs are entitled to permanent injunctive relief.

21 26. Plaintiffs are entitled to recover their attorneys fees and costs of suit pursuant to  
22 15 U.S.C. §1117.

23 **SECOND CLAIM FOR RELIEF**

24 (Common Law Trademark Infringement Against All Defendants)

25 27. Plaintiffs reallege, and incorporate herein by this reference, each and every  
26 allegation set forth in paragraphs 1 through 26, inclusive.

27 28. Plaintiffs have advertised and promoted their products under the WINDOW  
28 WORLD Trademark and as a result of this advertising and promotion, Plaintiffs' products and



1 Trademarks have come to mean and are understood to mean the products of Plaintiffs, and are  
2 the means by which those products are distinguished from the products of others in the same and  
3 in related fields.

4 29. Because of the long, continuous and exclusive use of the Plaintiffs' Marks  
5 described in this complaint, the Plaintiffs' Marks have acquired a secondary meaning associated  
6 by purchasers and the public with Plaintiffs' products.

7 30. Defendant's activities complained of in this complaint constitute unauthorized  
8 manufacturing and/or use and/or distribution and/or selling in California and in interstate  
9 commerce of goods bearing a reproduction, copy and/or colorable imitation of the Plaintiffs'  
10 Marks or confusingly similar marks. Such activities have caused, and are likely to cause  
11 confusion, mistake, or deception as to the source or association of the products.

12 31. Further, the activities of Defendant are intended to, and are likely to, lead the  
13 public to conclude, incorrectly, that the products being offered, marketed, distributed and/or sold  
14 by Defendant originate, are sponsored by, or associated with or are authorized to be offered,  
15 marketed, distributed and/or sold by Plaintiffs, to the damage and harm of Plaintiffs, its licensees  
16 and the public.

17 32. As a result of the foregoing, Plaintiffs have been damaged in an amount which is  
18 not precisely ascertainable, but which is in excess of the jurisdictional minimum of this Court.

19 33. The activities of Defendant as alleged in this Complaint have caused and will  
20 continue to cause irreparable harm to Plaintiffs for which Plaintiffs have no adequate remedy at  
21 law in that: 1) if Defendant's wrongful conduct continues, consumers are likely to become  
22 further confused as to the source, association or approval of Defendant's confusingly similar  
23 products; 2) Plaintiffs's products and goodwill are unique and valuable property which have no  
24 readily determinable market value; 3) the infringement by Defendant constitutes an interference  
25 with Plaintiffs' goodwill and customer relationships; and 4) Defendant's wrongful conduct, and  
26 the damages resulting to Plaintiffs is continuing. Accordingly, Plaintiffs are entitled to  
27 permanent injunctive relief.

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**THIRD CLAIM FOR RELIEF**

(False Designation of Origin and False Description in Violation of the

Lanham Act §43(a), 15 U.S.C. §§ 1114(1) and 1125(a) Against All Defendants)

34. Plaintiffs realleges, and incorporate by this reference, each and every allegation set forth in paragraphs 1 through 33, inclusive.

35. Defendant's use of a WINDOW WORLD logo on Defendant's products is causing and is likely to continue to cause confusion as to the source thereof and, therefore, constitutes a false designation of origin and a false description of Defendant's goods as being made or sponsored by, or associated with, or affiliated with, or authorized by Plaintiffs. Plaintiffs have been or likely will be damaged by Defendant's use of the substantially similar and confusing mark. The importing, manufacturing, licensing, distribution, marketing, sale and/or offer for sale by Defendant of the infringing goods constitutes a violation of the Lanham Trademark Act, including, but not limited to, 15 U.S.C. §1125(a).

36. Unless permanently restrained and enjoined, Defendant will continue to import, manufacture, license, distribute, market, sell and/or offer to sell their products, or the products of other Defendants, in violation of Plaintiffs' rights, thereby causing Plaintiffs substantial and irreparable damage to its business, reputation, and goodwill. Because the amount of these damages cannot be readily ascertained at law, Plaintiffs are without an adequate remedy at law.

37. Plaintiffs have been damaged in an amount as yet unascertained by the acts of Defendants, and each of them, but which is in excess of the jurisdictional minimum of this Court.

**FOURTH CLAIM FOR RELIEF**

(Unfair Competition Against All Defendants)

38. Plaintiffs reallege, and incorporate by this reference, each and every allegation set forth in paragraphs 1 through 37, inclusive.

39. The acts and conduct of Defendant alleged in this complaint (i) constitute an unfair competition at common law; (ii) violate the Uniform Deceptive Trade Practices Act, California Business & Professions Code § 17200 et seq.; and/or (iii) constitute an infringement of Plaintiffs' statutory and common law rights in its trademarks and improper and unfair



1 competition with Plaintiffs.

2 40. Defendant's conduct as alleged above has damaged and will continue to damage  
3 Plaintiffs' goodwill and reputation and has resulted in a loss of profits to Plaintiffs in an amount  
4 which is unknown at the present time, but which is in excess of the jurisdictional minimum of  
5 this Honorable Court. Further, Defendant has made profits from the infringing use and from the  
6 acts of unfair competition, the extent of such profits being currently unknown to Plaintiffs, but in  
7 excess of the jurisdictional minimum of this Court.

8 41. Unless permanently restrained and enjoined, Defendant will continue to offer  
9 goods using a mark which infringes Plaintiffs' registered and common law trademarks thereby  
10 causing customer confusion as well as causing Plaintiffs substantial damage to its business,  
11 reputation and goodwill. Because the amount of these damages cannot be readily ascertained,  
12 Plaintiffs are without an adequate remedy at law.

13 **FIFTH CLAIM FOR RELIEF**

14 (California State Trademark Violation, Business and Professions Code § 14230(6))

15 42. Plaintiffs reallege, and incorporate herein by this reference, each and every  
16 allegation set forth in paragraphs 1 through 41, inclusive.

17 43. Plaintiffs have advertised and promoted their products under the Registered Mark,  
18 and as a result of this advertising and promotion, Plaintiffs' products and the Registered Marks  
19 have come to mean and are understood to mean the products of Plaintiffs WINDOW WORLD,  
20 and are the means by which those products are distinguished from the products of others in the  
21 same and in related fields.

22 44. In or about 2004, Plaintiffs licensed the name WINDOW WORLD SAN DIEGO,  
23 together with a license to use Plaintiffs' federally registered mark: "WINDOW WORLD,"  
24 Registration Number 2,331,991.

25 45. On or about August 23, 2006, Defendant registered a service mark in the state of  
26 California using the logo "WINDOW WORLD."

27 46. Defendant's registration in the state of California of the service mark "WINDOW  
28 WORLD" has caused, or is likely to cause, consumer confusion, consumer mistake, and/or

1 deception as to the source or association of the products.

2 47. California State Trademark Law, Business and Professions Code § 14230(6) states  
3 as follows: The secretary shall cancel from the register, in whole or in  
4 part, any of the following:

5 \* \* \*

6 (6) The registered mark is so similar to a mark registered by  
7 another person in the United States Patent and Trademark Office  
8 prior to the date of the filing of the application for registration by  
9 the registrant hereunder, and not abandoned, as to be likely to  
10 cause confusion or mistake, or to deceive. However, should the  
registrant prove that the registrant is the owner of a concurrent  
registration of a mark in the United States Patent and Trademark  
Office covering an area including this state, the registration  
hereunder shall not be canceled for that area of the state.

11 48. Defendant's California state registered service mark "WINDOW WORLD" is  
12 similar to Plaintiffs' mark which was previously registered in the United States Patent and  
13 Trademark Office. Plaintiffs' registration of the "WINDOW WORLD" mark in the United  
14 States Patent and Trademark Office occurred prior to the date of the filing of the application for  
15 service mark registration by Defendant. Accordingly, Defendant's registration of "WINDOW  
16 WORLD" is likely to cause confusion or mistake, or to deceive and must be cancelled.

17 49. Defendant's registration of the "WINDOW WORLD" mark, as alleged in this  
18 Complaint, has caused and/or will cause irreparable harm to Plaintiffs for which Plaintiffs have  
19 no adequate remedy at law in that: 1) if Defendant's wrongful conduct continues, consumers are  
20 likely to become further confused as to the source, association or approval of Defendant's  
21 confusingly similar products; 2) Plaintiffs' products and goodwill are unique and valuable  
22 property which have no readily determinable market value; 3) the infringement by Defendant  
23 constitutes an interference with Plaintiffs' goodwill and customer relationships; and 4)  
24 Defendant's wrongful conduct, and the damages resulting to Plaintiffs is continuing.  
25 Accordingly, Defendant's California state service mark registration of the "WINDOW WORLD"  
26 mark must be cancelled under California State Trademark Violation, Business and Professions  
27 Code § 14230(6).

**PRAYER FOR RELIEF**

**WHEREFORE, Plaintiffs** respectfully request judgment as follows:

1. That the court enter a judgment against Defendant that they have:

(a) infringed the rights of Plaintiffs in its federally-registered trademarks under 15 U.S.C. § 1114;

(b) infringed the common law rights of Plaintiffs in its trademarks;

(c) committed and are committing acts of false designation or origin, false or misleading description and false or misleading representation against Plaintiffs (see Lanham Act § 43(a) and 15 U.S.C. 1125(a));

(d) competed unfairly with Plaintiffs at common law and in violation of California Business & Professions Code § 17200 *et. seq.*; and

(e) otherwise injured the business reputation and business of Plaintiffs by their acts and conduct set forth in this complaint.

2. That the Court issue a permanent injunction against Defendant and that Defendant, its officers, directors, principals, agents, representatives, servants, employees, successors and assigns, and all others in active concert or participation with Defendant be enjoined and restrained from:

(a) imitating, copying or making unauthorized use of Plaintiffs' Registered Trademarks and any other works protected by Plaintiffs irrespective of the origin of such products;

(b) manufacturing, producing, distributing, circulating, selling, offering for sale, advertising, importing, exporting, promoting or displaying any product or thing bearing any simulation, reproduction, copy or confusingly similar likeness of Plaintiffs' Registered Trademarks and/or any portion thereof, and/or the products protected by Plaintiffs' trademarks and any other works protected by any of Plaintiffs' trademarks;

(c) engaging in any other activity constituting an infringement of the Plaintiffs' Trademarks, or of Plaintiffs' rights in, or to use or to exploit, said trademarks,

1 name, reputation or goodwill;

2 (d) using any false designation of origin or false description which can or is likely  
3 to lead the construction, remodeling and home improvement industry (trade), or  
4 public, or individual members thereof, erroneously to believe that any product or  
5 thing has been manufactured, distributed, offered for sale, sold, licensed,  
6 sponsored, approved, or authorized by or for Plaintiffs, when such is not in fact  
7 true;

8 (e) engaging in any unauthorized or unlicensed standalone sales or  
9 distribution of any product bearing any of, or any likeness of, Plaintiffs'  
10 Trademarks or any portion thereof, or any other works protected by Plaintiffs'  
11 trademarks irrespective of the origin of such products; and

12 (f) assisting, aiding or abetting any other person or business entity in  
13 engaging in or performing any of the activities referred to in subparagraphs (a)  
14 though (e) above;

15 3. That the Court order Defendant to pay to Plaintiffs both the cost of this action and  
16 the reasonable attorneys fees incurred by it in prosecuting this action; and

17 4. That the Court order the cancellation of Defendant's state service mark registration  
18 under California State Trademark Law, Business and Professions Code § 14230(6); and

19 5. That the Court grant Plaintiffs such further and additional relief as it deems just  
20 and proper.

21  
22 Dated: August 29, 2008

MORRIS, SULLIVAN & LEMKUL, LLP

23  
24  
25 By

WILL LEMKUL  
MATTHEW YARLING  
Attorneys for Plaintiffs

JS 44 (Rev. 12/07)

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

## I. (a) PLAINTIFFS

WINDOW WORLD SAN DIEGO, INC., a California corporation;  
WINDOW WORLD, INC., a North Carolina corporation;

(b) County of Residence of First Listed Plaintiff San Diego  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Shawn D. Morris, Esq. - MORRIS, SULLIVAN & LEMKUL LLP  
9915 Mira Mesa Boulevard, Suite 300, San Diego, CA, 92131

## DEFENDANTS

WINDOW WORLD, INC., a California corporation  
through 100, inclusive

County of Residence of First Listed Defendant San Diego  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

08 CV 1598 W NLS

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff  
☐ 2 U.S. Government Defendant  
☒ 3 Federal Question (U.S. Government Not a Party)  
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                        | DEF                        |   | PTF                        | DEF                        |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 410 Agriculture <input type="checkbox"/> 420 Other Food & Drug <input type="checkbox"/> 425 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 430 Liquor Laws <input type="checkbox"/> 440 R.R. & Truck <input type="checkbox"/> 450 Airline Regs. <input type="checkbox"/> 460 Occupational Safety/Health <input type="checkbox"/> 490 Other <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input checked="" type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <b>Habeas Corpus:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAXES</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

## V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding  
☐ 2 Removed from State Court  
☐ 3 Remanded from Appellate Court  
☐ 4 Reinstated or Reopened  
☐ 5 Transferred from another district (specify)  
☐ 6 Multidistrict Litigation  
☐ 7 Appeal to District Judge from Magistrate Judgment

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
15 USC Section 1114(1)

Brief description of cause:  
Trademark Infringement

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

## VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

08/29/2008

FOR OFFICE USE ONLY

RECEIPT # 154581 AMOUNT \$350 APPLYING IFP JUDGE MAG. JUDGE

*LAC 8/29/08*

*CR*

**UNITED STATES  
DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA  
SAN DIEGO DIVISION**

**# 154581 - TC  
\* \* C O P Y \* \*  
August 29, 2008  
16:47:54**

**Civ Fil Non-Pris**

USAO #: 08CV1598

Judge.: THOMAS J WHELAN

Amount.: \$350.00 CK

Check#: BC8137

**Total-> \$350.00**

FROM: WINDOW WORLD, SAN DIEGO  
VS  
WINDOW WORLD INC